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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,748	03/13/2006	Claas Junghans	JUNGHANS	9385

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EXAMINER

LEAVITT, MARIA GOMEZ

ART UNIT	PAPER NUMBER
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1633

NOTIFICATION DATE	DELIVERY MODE
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08/23/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@FEIEREISENLLC.COM

ATTACHMENT TO ADVISORY ACTION

11. CONT. Claims 8-11, 22, 23, 25, 27, 29-36, 39-42 are pending. Claims 22, 39 and 40 have been amended by Applicants amendment filed on 05-12-2010.

Objection maintained in response to Applicants' arguments or amendments

Claims 8-10, 22, 29, 31, 33, 35, 36 and 39 remain objected to because of the following informalities: At page 3, claim 22 recites in lines 4-6, "at least one Feline Leucosis virus nucleotide sequence, wherein said mutated nucleotide sequence encodes one of a structure protein "gag" or a membrane protein "env", which comprises codons optimized for gene expression in Felidae and contains no splice donor or acceptor sequences". The location of the term "which" after "env" is grammatically incorrect. The following amendment is suggested: "at least one Feline Leucosis virus nucleotide sequence which is codon optimized for gene expression in Felidae and contains no splice donor or acceptor sequences, wherein said mutated nucleotide sequence encodes one of a structure protein "gag" or a membrane protein "env",

Appropriate correction is required.

Objections/Rejections maintained in response to Applicants' arguments or amendments

***Notice To Comply with Sequence Rules For Patent Applications Containing
nucleotide Sequence And/Or Amino acid Sequence Disclosures***

Applicants' filing of a Computer readable form on 05-12-2010 to specifically list and identify the claimed peptide sequence comprising PKKKRKV as SEQ ID NO: 41 is acknowledged. However, in response to Applicants' filing of a sequence listing in computer readable form and in printing on 05-12-2010, objection to the specification remains for the following reasons: The Biotechnology system branch of the Scientific and Technical Information Center (STIC) of USPTO experienced a problem when processing the computer readable form for the Application Serial Number 10/528,748 (please, CFR document printed by STIC). Search of amino acids of SEQ ID No. 41 is necessary for examination of claim 11 (see CRF copy attached hereto).

Additionally, at page 6, claim 36 recited "selected from the group consisting of SEQ ID NOS: 36, 37, 38, 39 and 40. Though the specification as filed discloses sequences SEQ ID NOS: 36, 37, 38, 39 and 40 at paragraphs [0162]-[0164], Applicants are required to ensure that each SEQ ID NO: is provided in the initial or substitute CRF and paper copy sequence listing. Additionally, for completeness, Applicants are advised to review the entire disclosure for compliance with 37 CFR §1.821(d).

New Ground of Objection/Rejection

The Specification remains objected as failing to with the requirements of 37 CFR 1.821 (d), which states:

(d) Where the description or claims of a patent application discuss a sequence that is set forth in the "Sequence Listing" in accordance with paragraph (c) of this section, reference must be made to the sequence by use of the sequence identifier,

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preceded by "SEQ ID NO:" in the text of the description or claims, even if the sequence is also embedded in the text of the description or claims of the patent application.

The specification filed on 04-05-2010 discloses amino acid and nucleotides sequences which are described or named with improper identifiers, for example, at page 28, paragraphs [0170] and [0172] sequence identifiers for the nucleotides sequences are missing. Additionally, for completeness, Applicants are advised to review the entire disclosure for compliance with 37 CFR §1.821(d).

Claim Rejections - 35 USC § 112- First paragraph- New Matter

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The basis of the rejection focuses on the failure of the present specification to adequately support the specific peptide of SEQ ID NO: 41 as recited in claim 11. A review of the specification as filed reveals no specific disclosure of the claimed peptide sequence comprising SEQ ID NO: 41. It is unclear whether SEQ ID NO:41 is used to identify the NLS peptide PKKKRKV as disclosed in ¶ [0174] of the published application. Furthermore, there is no disclosure of such

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peptide in the computer readable form on 05-12-2010 or where support for the SEQ ID NO: 41 can be found. Hence, is not clear that the Applicant was in possession of an isolated nucleotide sequence covalently linked to one peptide of SEQ ID NO: 41 as recite in claim 41 at the time of filing. Thus, claim 11 includes impermissible New Matter.

Conclusion

Claims 8-10, 22, 29, 31, 33, 35, 36 and 39 are objected.

Claims 23, 25, 27, 30, 32, 34 and 40-42 are allowable.

Claim 11 is rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Leavitt whose telephone number is 571-272-1085.

The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach, Ph.D can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1633; Central Fax No. (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

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Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maria Leavitt/

Maria Leavitt
Primary Examiner, Art Unit 1633